

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MAY 25 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of )

AURIO A. MATOS )

LLOYD SANTIAGO-SANTOS and )  
LOURDES RODRIGUEZ BONET )For Construction Permit for )  
a New Station on Channel 293A )  
in Culebra, Puerto Rico )

MM Docket No. 93-89

File No. BPH-911114MS

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To: The Honorable Joseph P. Gonzalez  
Administrative Law Judge

OPPOSITION TO PETITION TO ENLARGE ISSUES

Lloyd Santiago-Santos and Lourdes Rodriguez Bonet ("Santos and Bonet"), by their attorneys, as provided for in §1.45(a) of the Commission's Rules, submit this their Opposition to Petition to Enlarge Issues ("Petition"), filed on behalf of Aurio A. Matos ("Matos") on May 14, 1993.

In support thereof, the following is shown:

1. Matos, in his Petition to Enlarge Issues, asked the Presiding Judge to add the following issues:

- a. Whether Santiago and Bonet violated Section 1.65 of the Commission's Rules when they failed to report the broadcast

- c. Whether in light of evidence adduced pursuant to the foregoing, Santiago and Bonet are basically qualified to be Commission licensees.

#### Matos Is Barking Up The Wrong Family Tree

2. Since Matos attempts to make much of the Santiago family relations, a clear, accurate understanding of those relations is essential. Raul Santiago-Santos, President of Kelly Broadcasting System Corporation ("Kelly"), is the brother of Lloyd Santiago-Santos, not the father. Hector Santiago-Santos, Secretary, Director and 45% owner of Aurora Broadcasting Company ("Aurora"), is the brother of Lloyd Santiago-Santos: he has no ownership interest in Kelly. Hector Santos Rivera, the Secretary/Treasurer, Director and 50% shareholder of Kelly, is the uncle of Lloyd Santiago-Santos: he holds no ownership interest in Aurora. Raul Santiago Roman is the father of Lloyd Santiago-Santos: he has no ownership interest in any broadcast station.

#### Failure to Report Family Interest Inadvertent

3. The gravamen of the Matos Petition is that Santos and Bonet failed to disclose family broadcast ownership interests as required by the FCC Form 301, Section II, Item 8(b). Santos and Bonet do not quarrel with the proposition advanced by Matos that in response to Item 8(b), the ownership interests of family members were not disclosed. However, as argued herein, this failure was inadvertent based upon a misreading of the question. It was not part of a concerted effort to conceal any information of decisional significance.

4. While Santos and Bonet do not contest the proposition that family broadcast ownership information was not provided in response to Item 8(b) in the original application, they do take strong exception to the attempt by Matos to characterize this inadvertence as a deceptive action. There is no evidence to support such a conclusion. The language in Item 8(b) is confusing at best. Indeed, Matos apparently misread the scope of the Item. It was not until December 8, 1992, over a year after his application was filed, that an amendment providing information concerning Matos family broadcast ownership was submitted. See Amendment dated December 8, 1992. In his transmittal letter, Matos states: "Through an original misunderstanding of the question, the media interests of his immediate family were not reported at the time the application was filed." If a question is raised as to whether Santos and Bonet have been negligent or inattentive to reporting rules or lacking in candor, attention must be turned to this revelation of Aurio A. Matos in his December 8, 1992 amendment. Matos is also a broadcaster. He should have been aware of the rules and regulations of the Commission, including rules governing reporting of media interests. His family also owns several broadcast stations in Puerto Rico. Yet now, Matos, unashamedly, points at Santos and Bonet and instead of assuming a similar misunderstanding, he states without equivocation and without support that Santos and Bonet were attempting to conceal family media interests.

5. Matos would have us believe that somehow Santos and Bonet were also remiss in not disclosing this family broadcast ownership interest in the Standard Integration Statement and somehow remiss in not disclosing the newspaper ownership until the Standard Integration Statement. First, there is no requirement to disclose family ownership interests in the Standard Integration Statement. The instructions direct that parties to the applicants disclose their ownership interests. Notwithstanding the confusion with Item 8(b), no one can quarrel with the fact that the question requires disclosure of newspaper ownership only within the same area of the proposed radio station. Thus, there was no requirement to disclose the family newspaper ownership in response to Item 8(b). It was disclosed in the Standard Integration Statement consistent with the purpose of that statement.

6. The question in the Form 301 used by Santos and Bonet is:

"Does any member of the immediate family (i.e., husband, wife, father, mother, brother, sister, son, or daughter) of any party to this application have any interest in or connection with any other broadcast station, pending broadcast application or newspaper in the same area, (see Section 73.355(c)) or, in the case of a television station applicant only, a cable television system in the same area, (see Section 76.501(a))."

The wording of this question leads one to believe that the modifier for all items is "in this area." And accordingly, if an applicant interpreted the question in that light, it would not disclose any interest outside of the area, in this

case, Culebra. Perhaps that is the same interpretation that Matos made when he completed his application which resulted in a "misunderstanding of the question."

7. In any event, Santos and Bonet assert that because of this ambiguous wording, it is not clear that all broadcast stations or pending applications of family members should be listed. Nevertheless, Santos and Bonet are amending their application by simultaneous filing to include this information.

#### There Is No Basis For Section 1.65 Issue

8. In the event that the Presiding Judge does interpret question 8(b) to ask for: 1) any broadcast station; 2) pending broadcast application; or 3) newspaper in the same area, Santos and Bonet assert that the reporting issue should not be added. First, the emphasis on §1.65 is misplaced. The media interests of the family members of Santos and Bonet were in place prior to the filing of the application. In any event, Merrimack Valley Broadcasting, Inc., 99 FCC 2d 680, 683, Footnote 9, states that an inquiry into a reporting violation is justified only when: "(1) unreported interests are of decisional significance, (2) an intent to conceal is present, or (3) a pattern of carelessness or inattentiveness is present." In this case, the unreported interests are not of decisional significance because they involve Santos's mother, Zaida Santos Rivera, brothers Hector Santiago Santos and Raul Santiago Santos and uncle Hector Santos Rivera. None of these individuals are parties to the referenced application.

9. As to intent, the ambiguity of the question is the issue, not whether there was an attempt to conceal. Santos listed his employment at WMSM in the application; Santos and Bonet listed their involvement in two newspapers in their integration statement. There is no evidence of any effort to conceal. Finally, Santos and Bonet have not been careless or inattentive in their application and there is no evidence, not even allegations, of a pattern of carelessness or inattentiveness. Accordingly, there is no legal basis for the requested issues.

**No Facts to Support Allegation  
That Raul Santiago is Real Party in Interest**

Kowl, Inc., 49 FCC 2d 962, 964 (Rev. Bd. 1974). Thus, the threshold proposition is whether Raul Santiago Roman, the father of Lloyd Santiago-Santos, has an ownership interest in the Santos and Bonet application. There is no such

Thus, it can hardly be concluded that this meeting involved the principal's father in negotiations of site availability.

14. It is uncontested that Raul Santiago Roman is to provide a portion of the funds to Santos and Bonet for the construction and operation of the proposed facility. However, without more, that fact hardly raises a question whether Raul Santiago Roman is a real party in interest with respect to the Culebra proposal any more than a letter from a bank indicating its willingness to extend funds for the construction and operation of a station without more raises any issue concerning untoward influence.

**Motion Fails to Meet  
Requirement of Section 1.229**

15. The Presiding Judge, in his Prehearing Order, reminded all parties that petitions to add issues must strictly comply with the standards and quality of proof required under §1.229 of the Commission's Rules. Section 1.229(d) requires motions to enlarge to contain specific allegations of facts sufficient to support the action requested. It further requires that any such allegations be supported by affidavit of person or persons having personal knowledge thereof. As shown above, Matos has failed to meet this standard. His attempt to define even the Santiago family relationships as seen above is, at best, flawed.

16. Other than the copies of filings with the FCC which counsel for Matos apparently misunderstood in developing the Santiago family tree, the only other factual allegation is a hearsay declaration by Mr. Matos relating to conversations



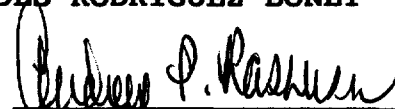
between Mr. Ventura and Mr. Santiago Roman and Lloyd Santiago-Santos. These feeble efforts fall far short of the strict compliance required to sustain request for additional issues of \$1.229 of the Commission's Rules.

**WHEREFORE** the premises considered, the Petition to Enlarge must be denied.

Respectfully submitted,

**LLOYD M. SANTIAGO-SANTOS  
AND  
LOURDES RODRIGUEZ BONET**

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Dated: May 25, 1993

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CERTIFICATE OF SERVICE

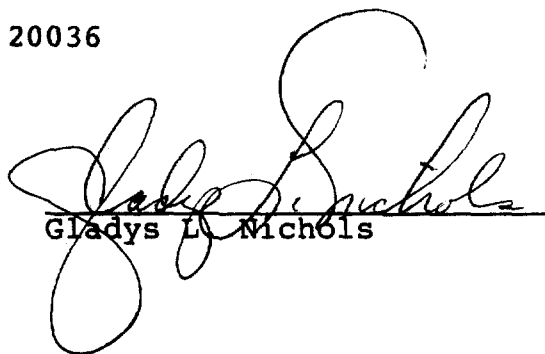
I, Gladys L. Nichols, do hereby certify that on this 25th day of May, 1993, the foregoing **OPPOSITION TO PETITION TO ENLARGE ISSUES** was served to the following persons by First Class Mail:

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